

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.1182 of 2016

IN

SA 353 of 2000

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1. Most Sahodari W/o late Sheo Shankar Das
2. Kedar Das S/o Late Sheo Shankar Das
3. Nageshwari D/o Late Sheo Shankar Das
4. Rambha D/o Late Sheo Shankar Das
5. Surekha D/o Late Sheo Shankar Das All resident of Village- Rulahi, P.S.- Motihari, Muffasil, District- East Champaran

.... Petitioners

Versus

1. Chalitar Das
2. Sitaram Das
3. Sihgasan Das
4. Sri Narayan Das
5. Suraj Das All sons of Shiva Raj Das of Village- Rulahi, P.S.- Motihari, Muffasil, District- East Champaran
6. Sri Bhagwan Ram, son of Rudal Ram, resident of Village- Pandakiya, P.S.- Motihari Muffasil, District- East Champaran
7. Jagannath Mahto, son of Pargan Mahto, resident of village- Godhawa, P.S.- Muffasil, P.O.- Motihari, District- East Champaran

.... Opposite Parties.

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Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar Gupta

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 29-03-2017

Heard the learned counsel for the petitioners.

The present restoration application has been filed for restoration of S.A.No.353/2000 which stood dismissed for default for non-compliance of the order dated 07.03.2008.

From the records, it transpires that the plaintiffs were the appellants in this appeal against the judgment and decree of



affirmance. It further transpires that the prayer for restoration has been made by filing the present restoration application (M.J.C.No.1182/2016) only on 05.04.2016. There is no cogent explanation for inordinate delay in approaching this Court for restoration of the appeal.

The learned counsel for the petitioners has submitted that the appellant no.1 is an illiterate lady and therefore the liberal approach should be taken. It does not appear from the memo of appeal that there was only sole appellant rather there are five appellants before this Court and therefore the aforesaid submission has got no substance. This Court, therefore, does not find any convincing or cogent reason for taking away the accrued right to the defendants after the dismissal of the S.A.No. 353/2000.

The restoration application is, accordingly, dismissed.

(V. Nath, J)

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